26/11/07

32

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No.2743 of 2007

PETITIONER Birendra Singh son of Shri R.P. Singh, aged about 50 years, occupation Service, R/o Bishrampur, Tahsil Surajpur, Distt. Surguja (C.G.).

Versus

RESPONDENTS

1. South Eastern Coalfields Limited, Seepat Road, Bilaspur (C.G), through its Chairman cum Managing Director.
2. The Chief General Manager, Rehar Gayatri Jainagar Sub Area, S.E.C.L., Bishrampur, Tahsil Surajpur, Distt. Surguja (C.G).
3. The Deputy Chief Personnel Manager, Bishrampur Area, S.E.C.L., Tahsil Surajpur, Distt. Surguja (C.G)
4. The Personnel Manager, Rehar Gayatri Jainagar Sub-Area, S.E.C.L., Bishrampur, Tahsil, Surajpur, Distt. Surguja (C.G).
5. The Sub-Area Manager, Rehar Gayatri Jainagar Sub Area, S.E.C.L., Bishrampur, Tahsil Surajpur, Distt. Surguja (C.G).
6. Enquiry Officer/Deputy Personnel Manager, Rehar Gayatri Janjgir Sub Area, S.E.C.L. Bishrampur, Tahsil Surajpur, Distt. Surguja (C.G)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA

Appearance:

Shri Ashok Kumar Shukla, counsel for the petitioner.

ORAL ORDER
(22.11.2007)

SUNIL KUMAR SINHA, J.

Heard.

Learned counsel for the petitioner submits that the petitioner is an employee of S.E.C.L. and he is keeping the possession of Company's residential quarter No.1B/130 which is situated at Bishrampur, Distt. Sarguja. He also submits that an enquiry pertaining to unauthorized occupation of the petitioner is pending against him and the charge sheet has been issued against him on 29/31-5-2006 (Annexure P-3). In the charge sheet, it has been alleged that the petitioner is unauthorizedly keeping the

(33)

possession of said Quarter No.1-B/130 and his such act is in violation of Clause 26.14 and 26.22 of the Certified Standing Order applicable in case of respondents' organization. He further submits that the said departmental enquiry has not been completed so far and the impugned order dated 18.01.2007 (Annexure P-1) has been passed by the department for recovery of rent etc., from the salary of the petitioner. His submission is that unless a final adjudication is made in the departmental proceedings, no orders like the impugned order Annexure P-1 can be passed.

I have heard learned counsel for the petitioner at length and have also perused the records of the writ petition.

A perusal of the charge sheet Annexure P-3 would show that violation of Clauses 26.14 & 26.22 of the standing order has been alleged against the petitioner. Clause 26.14 relates to unauthorized use or occupation of Company's bungalow/ quarters/buildings and or land any such property in the custody of the company and Clause 26.22 deals with any willful and deliberate act which is subversive of discipline or which may be detrimental to the interests of the Company.

During the course of arguments, it was pointedly asked from learned counsel for the petitioner that whether the petitioner was allotted this quarter by the concerned authority of S.E.C.L., on which he submits that no written order has been issued in favour of the petitioner to retain the possession of the said quarter but he is keeping possession of the said quarter on oral instructions of Sub-Area Manager.

On such reply, after considering the facts and circumstances of this case, in the opinion of this Court, it would not be appropriate to quash the charge sheet dated 29/31.5.2006 (Annexure P-3) as sought by the petitioner in the writ petition because nature of occupation has to be adjudicated which shall form the basis of further course to be adopted against the petitioner. Except the above ground no other grounds pertaining to charge sheet have been raised by the counsel for the petitioner,

34

therefore, this petition cannot be entertained for quashment of the charge sheet on this ground.

As far as the order dated 18.1.2007 (Annexure P-1) is concerned when counsel for the petitioner himself is admitting before this court that the quarter is under such occupation of the petitioner, the order of recovery of common rent etc., on ordinary penal basis can not be interfered with. However, it is only observed that the order Annexure P-1 shall be subject to the final orders passed in the departmental enquiry pending before the respondent authorities, pertaining to the allegations made against the petitioner.

With the aforesaid observations, this petition stands finally disposed of.

Sd/-
Sunil Kumar Sinha
Judge

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